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# United States
# Circuit Court of Appeals
## For the Ninth Circuit

JOHN RANTALA,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

## BRIEF OF PLAINTIFF IN ERROR

Upon Writ of Error to United States District Court for the District of Idaho, Northern Division.

NAMES AND ADDRESSES OF ATTORNEYS OF RECORD

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## STATEMENT

In this case both Hoiska and Rantala were informed against charging in each information that each had the possession of intoxicating liquors and that each of them run this place as a nuisance.

It appears from the evidence that Rantala is the owner of the property and was in there repairing the same when the officers came in.

And it further appears without denial that the property was leased to one Hoiska without contradiction and that he was convicted of having the possession of this supposed whiskey if it was whiskey by reason alone of his being proprietor of the place and the fact of his admission that he placed this jar or container on this drain board but he says it was empty when placed there.

Mr. Marler is the only witness who testifies as to seeing this jar which was introduced in evidence over the objection of both defendants and he says it was half full of some kind of liquid and that Rantala knocked it into a sink or container of water of large size containing about six inches of water and it fell on its side and some water ran into it and when he picked it out there was about one inch of a mixture of moonshine and water in it.

That it was then taken to Spokane for analysis and left with a chemist for two hours

alone but he was never produced to testify as to its contents and it was admitted on the strength of the statement of witnesses that it had the odor of moonshine which is possible if it had formerly contained moonshine if it had none in it at the time of search of this place.

We claim that there is no legal testimony to connect Rantala with either the possession of this liquor if any there was in this place or to connect him in any way with the management of the place or running the same as a nuisance.

The parties being informed against separately it would be presumed that the Government was in doubt as to who in fact was the proprietor or running the place otherwise they should have been informed against jointly.

And when it appeared without contradiction that Hoiska was the proprietor and fully responsible for what was in there and he was convicted upon that ground although he was not near this supposed container of liquor then it would be incumbent upon the Government to show that Rantala had an interest in said business beyond a reasonable doubt and there is not a syllable of evidence upon that point.

In this case it is not a question of the sufficiency of the evidence but there is total lack of any legal evidence of Rantala's connection

with the running of said place, or possession of whiskey.

The only thing to connect Rantala with this matter is the statement of Marler that he knocked the container into this water and it fell onto its side and some water ran into it. We submit this statement taken into consideration with his cross examination is ridiculous and is impossible to have occurred but if we admit for argument's sake that Rantala did knock this container into that sink it would not make him the possessor of the contents or connect him with the maintaining of that property as a nuisance.

There are two motions in this case, one for new trial and one for arrest of judgment, both based upon the same grounds. We are aware that the motion for new trial rests in the discretion of the lower court and is not reviewable but if there was no legal evidence against Rantala the judgment should have been arrested and no judgment should have been pronounced against him.

## ARGUMENT

It will be noted that there is but one point in this case and that is whether there is any legal evidence upon which to convict Rantala.

It having been shown that Hoiska had this property leased and was the exclusive prop-

rietor without denial it was incumbent upon the Government to show Rantala's connection with the management of the property by some legal and tangible evidence which was not done. If we admit for argument's sake that he did knock that container into the sink in view of the evidence where is he shown to have had possession of same and what evidence shows him to have run that place as a nuisance.

It was shown by the evidence undisputed that Hoiska had this place rented from month to month from December and that about one week before the raid he had entered into a written lease for the premises for a term and the exhibits show that Hoiska took out the license to run the place as a pool room and there are receipts for rent paid to Rantala showing the whole transaction and they are worn and show that they were not concocted for the purpose of this trial.

We are aware that the Courts are overburdened with whiskey cases and that they feel that they should use all their power to put down this traffic but we claim that the law should not be undermined and the fact should not be lost sight of that each defendant in a whiskey case should be found guilty upon evidence which shows his guilt beyond reasonable doubt and no man should be convicted upon mere suspicion.

If Rantala did knock that container into that sink that did not connect him with running the place or possessing the whiskey while he might have been charged with obstructing the officers if such was the case it would not establish the charge against him in this case.

We claim that the real proprietor having been convicted of possession and running the place as a nuisance upon the proof and assumption that he was the owner and proprietor of the place precludes the idea of Rantala being connected with the place in the absence of a showing that he had some interest therein which is not shown. It will be noted on Pages Twenty-one and Twenty-two that we are given time to prepare a bill or statement of exception to all testimony objected to as well as the court's action in overruling our motions both for new trial and to arrest judgment against Rantala.

Respectfully submitted,

R. B. NORRIS,

St. Maries, Idaho,

Attorney for Plaintiff in Error.